

FILED

UNITED STATES COURT OF APPEALS

JAN 25 2017

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ALLEN PACE, III,

Applicant,

v.

UNITED STATES OF AMERICA,

Respondent.

No. 16-71894

D.C. No. 2:99-cr-01007-MMM
Central District of California,
Los Angeles

ORDER

Before: TROTT, TASHIMA, and CALLAHAN, Circuit Judges.

The application for authorization to file a second or successive 28 U.S.C. § 2255 motion makes a prima facie showing for relief under *Johnson v. United States*, 135 S. Ct. 2551 (2015). The application is granted. *See Welch v. United States*, 136 S. Ct. 1257, 1264-68 (2016) (*Johnson* announced a new substantive rule that has retroactive effect in cases on collateral review).

The district court is authorized to proceed with the identical section 2255 motion, protectively filed in case number 2:99-cr-01007-MMM, on June 20, 2016. The motion shall be deemed filed in the district court on June 14, 2016, the date the application was filed in this court. *See Orona v. United States*, 826 F.3d 1196 (9th Cir. 2016).

The applicant's unopposed motion for appointment of counsel is denied without prejudice to renewal in the district court.

The Clerk shall serve this order and the application directly on the chambers of the Honorable Margaret M. Morrow.

No further filings will be entertained in this case.